

BUY AMERICA AND DOMESTIC STEEL

The Issue:

The Federal Highway Administration (FHWA) is going *out of its way* to circumvent the Buy America law and purchase foreign steel for American infrastructure projects. A leaked FHWA memo obtained by Congressman Brian Baird (D-WA) confirms the FHWA's intent to *willfully* dodge both the 1982 Buy America law and a 2005 Sense of Congress resolution in order to purchase cheaper, foreign steel from countries like China.

Why is the Buy America Provision Important?

Buy America helps working men and women in the United States keep their construction jobs and earn decent, living wages. Buy America also strengthens our domestic steel industry, which is critical to our national security and infrastructure.

It is common sense that American taxpayer dollars should be spent on American goods used in American infrastructure projects. These expenditures stimulate U.S. production and job creation.

Why Did Congressman Baird Introduce Sense of Congress Language in 2005?

Believing it was impossible the FHWA was going out of its way to purchase foreign steel and outsource American jobs, Congressman Baird, a Member of the House Transportation Committee, inserted the nonbinding Sense of Congress language into the 2005 Transportation Reauthorization bill to help clarify what he assumed was an honest misunderstanding of Buy America's original intent.

Now, knowing the FHWA and Administration are willfully going out of their way to purchase foreign steel, Congressman Baird is pursuing legislation to enforce Buy America and protect our domestic steel workers.

Isn't the FHWA Just Trying to Save Money by Ignoring Buy America?

In the short term, refusing to fully comply with the Buy America law will probably save some money (an estimated 1 to 6% of the total cost of the current San Francisco Bay Bridge project, for example). In the long term, however, the outsourcing of decent, living-wage American manufacturing jobs and the decline of our domestic steel industry will prove both costly and consequential for the U.S.

The domestic steel industry employed 95,000 people in 2005. If the U.S. keeps outsourcing steel contracts, this figure is likely to drop significantly in the coming years.

The decline of the U.S. steel industry also has important national security implications. Defense planners are reportedly already concerned about where the U.S. will go a decade from now for essential strategic materials like steel. If present trends continue, the United States soon will be unable to build tanks, armored vehicles, guns, bombs, and warships without depending on foreign steel from countries like China.

Moreover, what would happen to the U.S. infrastructure in the event a deadly earthquake or another devastating hurricane season were to occur? Rebuilding efforts would be made that much more difficult if we had no domestic steel industry on which to rely.

How is the FHWA Getting Around Buy America?

The Buy America law specifically stipulates that domestic iron and steel be used in federal transportation projects unless its use would increase the "overall project contract" by more than 25%. The law intended for American-made steel to be used in any transportation project that receives federal funding.

The FHWA and state highway project managers are circumventing the Buy America law by breaking bridge projects into smaller components and applying the 25% test individually to these smaller components, rather than to the entire project as required by law. Foreign steel providers are advantaged by breaking the project into smaller parts because it is possible to create situations where the 25% test is exceeded on the smaller parts, even though domestic steel would be required if the test were applied to the overall project.

Buy America: The Bay Bridge Project

The Basics:

- Officially known as the San Francisco-Oakland Bay Bridge East Span Seismic Safety Project or the East Span project, the plan to replace the 10-lane East Span section of the bridge to withstand a large scale earthquake is one of the largest public works projects Northern California has seen in decades.
- The new East Span section will contain approximately 200 million pounds of structural steel and 120 million pounds of reinforcing steel that will require 1.3 million man hours to fabricate.
- Total estimated cost of the project: \$6.2 billion
- Cost of domestic steel vs. foreign steel: \$40-100 million (*according to domestic steel fabricators)
- Cost of domestic steel vs. foreign steel: \$400 million (*according to FHWA)
- Cost of foreign steel: \$260-345 million
- Estimated cost increase of the entire project if domestic steel were used in place of foreign steel: 1 - 6% (a seemingly insignificant cost increase given the overall economic and national security benefits of using domestic steel).
- Contract bids for the Bay Bridge Project have been extended to March 22, 2006. The project is expected to be completed in 2012.
- In late 2005, CA Governor Arnold Schwarzenegger and state transportation officials personally lobbied Chinese steel contractors to bid on the project.

How FHWA and Caltrans Are Getting Around Buy America:

- **LOOPHOLE 1:** *Only applying Buy America to a portion of the Bay Bridge project.* The cost difference between domestic and foreign steel is not even close to the 25% Buy America exemption when the entire cost of the project - \$6.2 billion – is taken into consideration (25% of \$6.2 billion is roughly \$1.55 billion). FHWA and the California Department of Transportation (Caltrans) are trying to circumvent Buy America by only applying the law to the \$1.5 billion steel superstructure portion of the project; domestic steel accounts for more than 25% of the total cost of this portion of the project (26.67% to be exact) when the higher \$400 million estimate cited by FHWA and Caltrans is used.
- **LOOPHOLE 2:** *Withholding federal funding until the project has been bid on (and the lower bids of foreign competitors have been selected).* Congressman Baird has written confirmation from Caltrans that \$230 million in federal funds has been withheld from the project: “State has preserved the right to use Federal funds in the future, but currently is paying project costs with State funds.”

Impact:

- Bay Bridge Fabricators, LLC, a consortium of four Southwest Washington companies (Oregon Iron Works, Thompson Metal Fab, Universal Structural, and Fought & Company), had plans to bid on the Bay Bridge project. Buy America protections would have positioned the consortium as a leading contender for a contract. With the misinterpretation of Buy America still in question, however, it appears unlikely the consortium will even bid on the project; it would cost the consortium one to two million dollars to put a bid together, and without Buy America protections, foreign competitors are expected to get the contracts. The consortium has already begun to layoff workers.
- The consortium predicted that the Bay Bridge contract would have created 300 new manufacturing jobs and 500 related jobs in the Vancouver-Portland area. The consortium also estimated that the Bay Bridge contract would have produced over \$51.6 million in business revenues and \$2.8 million in taxable retail purchases.